

REMARKS/ARGUMENTS

In this amendment, claims 1, 9, 26-40, 42, 45, 72, 74-75, and 77 are amended. No claims are canceled or added. No new matter is added. Thus, claims 1-16, 18-22, 25-40, 42, 45, 68, 70-72, and 74-77 remain pending.

Claim Rejections 35 USC § 112, Indefinite

Claims 1-16, 18-22, 25-40, 42, 45, 68, 70-72 and 74-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants believe that these claims were definite, but have amended the claims to expedite issuance of allowable subject matter.

Claims 1-16, 18-22, 25, 68, 70-71, 76

Specifically, the Office Action states that the phrase "*creating at least N combinations of commodity options by, for each of the N commodity categories*" was unclear. Claim 1 now recites "*creating, with the computer, at least N combinations of commodity options by:*" It is clear that at least N combinations are created and what a combination is since claim 1 also recites "*a combination is composed of one commodity selected from each category.*" Claim 1 also recites that the N combinations are created by "*for each commodity category K of the N commodity categories, creating a corresponding combination K.*" This claim element is clear in that a combination K is created with a correspondence to commodity category K. For example, a correspondence is that the option for category K is chosen first for combination K, as recited in (b)(i). Support for these claim elements can be found, for example, in FIG. 11 (steps 1105, 1170, and 1180).

Also, the Office Action states that the phrase "*selecting a highest ranked option for that commodity category*" is not clear because there are N commodity categories. Claim 1 now recites "*selecting a highest ranked option for the Kth commodity category.*" The current category of the for-each loop (namely "that" category) is now specifically recited as the "Kth commodity category." Applicant submits that to which commodity category is being referred is absolutely clear. Applicant also submits that steps b(ii) and b(iii) are also clear with respect to this claim element. Support for this claim element can be found, for example, in FIG. 11 (step 1110).

Also, the Office Action states that the phrase "*the remaining commodity categories*" is unclear. Claim 1 now recites "*wherein a remaining commodity category is any commodity category that has not had an option selected in steps (b)(i) or (b)(ii) for the Kth combination, wherein K is an integer running from 1 to N.*" Applicant submits that the claim element "*the remaining commodity categories*" is clear. Support for this claim element can be found, for example, in FIG. 11 (steps 1127-1149).

Accordingly, Applicant respectfully requests that claim 1 and its dependent claims are in condition for allowance.

Claims 26-40, 42, 45, 72, 74-75, 77

Applicants submit that independent claim 26 and its dependent claims are definite with respect to the claim elements mention above for claim 1.

Also, the Office Action states that claim 26 is indefinite for combining two different statutory classes of invention. This was due to a typographical error. Claim 26 has been amended to refer to a computer readable medium having instructions and not to another statutory class of invention. Support for this claim element can be found, for example, in FIG. 2.

Accordingly, Applicant submits that claim 26 is definite. Note that Applicant is not invoking 35 U.S.C. § 112, ¶ 6.

Accordingly, Applicant respectfully requests that claim 26 and its dependent claims are in condition for allowance.

Claim Rejections 35 USC § 101, Non-statutory subject matter

Claims 26-40, 42, 45, 72, 74-75 and 77 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to a non statutory subject matter because claim 26 embraces or overlaps two different statutory classes of invention. This was due to a typographical error as mentioned above and has been corrected.

Accordingly, Applicant submits that claim 26 and its dependent claims are directed to allowable subject matter.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

/David B. Raczkowski/

David B. Raczkowski
Reg. No. 52,145

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
DBR:scz
61313466 v1